

House File 355 - Introduced

HOUSE FILE 355

BY ANDERSON

A BILL FOR

1 An Act relating to adoption, including access to adoption
2 records for adult adoptees.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 600.4, subsection 2, Code 2017, is
2 amended to read as follows:

3 2. ~~Husband and wife~~ Spouses together.

4 Sec. 2. Section 600.4, subsection 3, Code 2017, is amended
5 to read as follows:

6 3. A ~~husband or wife~~ spouse separately if the person to
7 be adopted is not the other spouse and if the adopting spouse
8 meets any of the following conditions:

9 a. Is the stepparent of the person to be adopted~~+~~.

10 b. Has been separated from the other spouse by reason of the
11 other spouse's abandonment as prescribed in [section 597.10](#)~~+~~or.

12 c. Is unable to petition with the other spouse because
13 of the prolonged and unexplained absence, unavailability, or
14 incapacity of the other spouse, or because of an unreasonable
15 withholding of joinder by the other spouse, as determined by
16 the juvenile court or court under [section 600.5, subsection 7](#).

17 Sec. 3. Section 600.16, subsection 1, paragraph b, Code
18 2017, is amended to read as follows:

19 b. The adopted person, provided that person is an adult at
20 the time the request for information is made. ~~For the purposes~~
21 ~~of this paragraph "adult" means a person twenty-one years of age~~
22 ~~or older or a person who attains majority by marriage.~~

23 Sec. 4. Section 600.16, subsection 2, Code 2017, is amended
24 to read as follows:

25 2. Information regarding an adopted person's existing
26 medical and developmental history and family medical history,
27 which meets the definition of background information in section
28 600.8, subsection 1, paragraph "c", shall be made available as
29 provided in [subsection 1](#). However, the identity of the adopted
30 person's biological parents shall not be disclosed to anyone
31 other than the adopted person, provided the adopted person is
32 an adult at the time the request for information is made.

33 Sec. 5. Section 600.16A, subsections 2 through 4, Code 2017,
34 are amended to read as follows:

35 2. All papers and records pertaining to a termination of

1 parental rights under chapter 600A and to an adoption shall
2 not be open to inspection and the identity of the biological
3 parents of an adopted person shall not be revealed except under
4 any of the following circumstances:

5 a. An agency involved in placement shall contact the
6 adopting parents or the adult adopted child regarding
7 eligibility of the adopted child for benefits based on
8 entitlement of benefits or inheritance from the terminated
9 biological parents.

10 b. The juvenile court or court, ~~for good cause,~~ shall order
11 the opening of the permanent adoption record of the juvenile
12 court or court for the adopted person who is an adult and
13 reveal the names of either or both of the biological parents
14 ~~following consideration of both of the following:~~

15 ~~{1} A biological parent may file an affidavit requesting~~
16 ~~that the juvenile court or court reveal or not reveal the~~
17 ~~parent's identity. The juvenile court or court shall consider~~
18 ~~any such affidavit in determining whether there is good cause~~
19 ~~to order opening of the records. To facilitate the biological~~
20 ~~parents in filing an affidavit, the department shall, upon~~
21 ~~request of a biological parent, provide the biological parent~~
22 ~~with an adoption information packet containing an affidavit for~~
23 ~~completion and filing with the juvenile court or court upon the~~
24 ~~filing of an affidavit by the adopted person who is an adult~~
25 ~~requesting that the record be opened.~~

26 ~~{2} If the adopted person who applies for revelation of the~~
27 ~~biological parents' identity has a sibling who is a minor and~~
28 ~~who has been adopted by the same parents, the juvenile court or~~
29 ~~court may deny the application on the grounds that revelation~~
30 ~~to the applicant may also indirectly and harmfully permit the~~
31 ~~same revelation to the applicant's minor sibling.~~

32 c. A biological sibling of an adopted person may file or may
33 request that the department file an affidavit in the juvenile
34 court or court in which the adopted person's adoption records
35 have been sealed requesting that the juvenile court or court

1 reveal or not reveal the sibling's name to the adopted person.
2 The juvenile court or court shall consider any such affidavit
3 in determining whether there is good cause to order opening
4 of the records upon application for revelation by the adopted
5 person. However, the name of the biological sibling shall not
6 be revealed until the biological sibling has attained majority.

7 *d.* The juvenile court or court may, upon competent medical
8 evidence, open termination or adoption records if opening
9 is shown to be necessary to save the life of or prevent
10 irreparable physical or mental harm to an adopted person or
11 the person's offspring. The juvenile court or court shall
12 make every reasonable effort to prevent the identity of the
13 biological parents from becoming revealed under this paragraph
14 to the minor adopted person. The juvenile court or court may,
15 however, permit revelation of the identity of the biological
16 parents to medical personnel attending the adopted person
17 or the person's offspring. These medical personnel shall
18 make every reasonable effort to prevent the identity of the
19 biological parents from becoming revealed to the minor adopted
20 person.

21 3. *a.* In addition to other procedures by which adoption
22 records may be opened under [this section](#), if both of the
23 following conditions are met, the department, the clerk of
24 court, or the agency which made the placement shall open the
25 adoption record for inspection and shall reveal the identity
26 of the biological parents to the adult adopted child or the
27 identity of the adult adopted child to the biological parents:

28 (1) A biological parent has placed in the adoption record
29 written consent to revelation of the biological parent's
30 identity to the adopted child at an age specified by the
31 biological parent, upon request of the adopted child.

32 (2) An adult adopted child has placed in the adoption record
33 written consent to revelation of the identity of the adult
34 adopted child to a biological parent.

35 *b.* A person who has placed in the adoption record written

1 consent pursuant to paragraph "a", subparagraph (1) or (2)
 2 may withdraw the consent at any time by placing a written
 3 withdrawal of consent statement in the adoption record.

4 c. Notwithstanding the provisions of this subsection, if
 5 the adult adopted person has a sibling who is a minor and who
 6 has also been adopted by the same parents, the department, the
 7 clerk of court, or the agency which made the placement may
 8 deny the request of either the adult adopted person or the
 9 biological parent to open the adoption records and to reveal
 10 the identities of the parties pending determination by the
 11 juvenile court or court that there is good cause to open the
 12 records pursuant to subsection 2.

13 d. Nothing in this subsection shall be interpreted to
 14 preclude the opening of an adoption record upon the filing of
 15 an affidavit by an adopted person who is an adult as provided
 16 in subsection 2, paragraph "b".

17 4. An adopted person whose adoption became final prior to
 18 July 4, 1941, and whose adoption record was not required to
 19 be sealed at the time when the adoption record was completed,
 20 shall not be required to ~~show good cause for~~ file an affidavit
 21 to request an order opening the adoption record under this
 22 ~~subsection, provided that the juvenile court or court shall~~
 23 ~~consider any affidavit filed under~~ this subsection section.

24 EXPLANATION

25 The inclusion of this explanation does not constitute agreement with
 26 the explanation's substance by the members of the general assembly.

27 This bill relates to adoption.

28 The bill replaces references to "husband" and "wife" with
 29 "spouse" in provisions relating to qualifications to file an
 30 adoption petition.

31 Under Code chapter 600 (adoption), "adult" is defined as
 32 a person who is married or 18 years of age or older. Under
 33 current law, however, Code section 600.16 provides that for
 34 the purposes of making available medical and developmental
 35 history information that was collected during the preplacement

1 investigation for an adoption, "adult" is defined as a person
2 21 years of age or older or a person who attains majority by
3 marriage. The bill eliminates this definition of "adult",
4 thereby defining adult as a person who is married or 18 years
5 of age or older consistently throughout the chapter.

6 The bill also provides additional means of allowing a
7 permanent adoption record to be open to an adopted person who
8 is an adult.

9 Current law provides that the court shall, for good cause,
10 order the opening of the permanent adoption record for an
11 adopted person who is an adult and reveal the names of either
12 or both of the biological parents following consideration of
13 the affidavit of a biological parent requesting that the court
14 reveal or not reveal the parent's identity and consideration of
15 the fact that the adopted person who files the application has
16 a sibling who is a minor and who has been adopted by the same
17 parents. Under the bill, the court would no longer require
18 good cause based upon these considerations, but instead, upon
19 the filing of an affidavit by the adopted person who is an
20 adult, the court would open the permanent adoption records
21 for the adopted person. The bill also amends the provisions
22 relating to the court opening termination or adoption records
23 if the opening is shown to be necessary to save the life of
24 or prevent irreparable physical or mental harm to an adopted
25 person or the person's offspring. Current law requires the
26 court to make every reasonable effort to prevent the identity
27 of the biological parents from becoming revealed to the adopted
28 person when such opening of the record is allowed. The bill
29 would only require the court to make every reasonable effort to
30 prevent the identity of the biological parents from becoming
31 revealed to the adopted person when the adopted person is a
32 minor, but not when the adopted person is an adult.

33 Current law also includes a mutual consent provision under
34 which a permanent adoption record may be opened and reveal
35 the names of either or both of the biological parents if

1 a biological parent places in the adoption record written
2 consent to revelation of the biological parent's identity
3 to the adopted child at an age specified by the biological
4 parent upon request of the adopted child, and the adult
5 adopted child in turn has placed in the adoption record
6 written consent to revelation of the identity of the adult
7 adopted child to a biological parent. The bill retains the
8 mutual consent opportunity but provides that the requirements
9 of the mutual consent process to request the opening of the
10 permanent adoption records shall not preclude the opening of
11 the permanent adoption record if requested by an adopted person
12 who is an adult.

13 Under current law, an adopted person whose adoption became
14 final prior to July 4, 1941, and whose adoption record was
15 not required to be sealed at the time when the adoption
16 record was completed, is not required to show good cause for
17 an order opening the adoption record. The bill amends this
18 provision to be consistent with the provisions of the bill so
19 that the requirement for showing good cause is stricken, and
20 additionally the person is not required as other adults under
21 the bill to file an affidavit to request an order to open the
22 adoption record.